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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91194012
Party	Defendant Frank Ottaviani and Todd Spinelli
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Signature	/Edwin D. Schindler/
Date	06/01/2010
Attachments	AQUAFREE, Opp. No. 91194012-Response to Notice of Default (6-1-2010).PDF ( 3 pages )(128819 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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GLAXOSMITHKLINE LLC,	:	
	:	Opposition No. 91194012
Opposer,	:	
	:	Tmk. Appl. Serial No. 77/757,308
v.	:	
	:	Trademark: "AQUAFREE"
TODD SPINELLI and	:	
FRANK OTTAVIANI,	:	
	:	
Applicants.	:	

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**APPLICANTS' RESPONSE TO THE NOTICE OF DEFAULT,**  
**ENTERED APRIL 30, 2010**

Applicants, TODD SPINELLI and FRANK OTTAVIANI, hereby jointly respond to, and respectfully request that, the *Notice of Default*, entered April 30, 2010, be vacated and that the concurrently-filed *Answer* entered and the above-identified opposition proceeding be reopened for the reason stated herein:

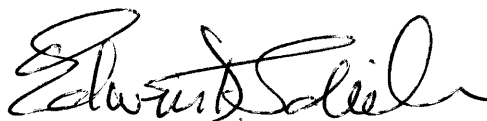
Applicants and Opposer were engaged in settlement discussions in March 2010 and Applicants were under the impression that the above-identified opposition had been settled to the satisfaction of all concerned. Notwithstanding apparent resolution of this matter, on April 23, 2010, Opposer filed a civil action in the United States District Court for the Eastern District of New York, entitled *GlaxoSmithKline LLC v. United Treatment Centers, Inc. et al.*, Civil Action No. 1:10-cv-01819-RRM-RER, which presents substantially the same, if not identical issues, presented by the instant opposition proceeding.

Because the dispute between the parties is, in fact, not resolved, as Applicants initially believed to be the case (though the parties are continuing to discuss settlement), Applicants respectfully request that the Board vacate the *Notice of Default*, entered April 30, 2010, and accept the concurrently-filed *Answer* in response to the *Notice of Opposition*. It is respectfully contended that Applicants should not be prejudiced by having failed to file their *Answer* by the original deadline of April 12, 2010, as a result of a misunderstanding that the dispute between the parties had been satisfactorily resolved to all concerned.

Accordingly, Applicants respectfully request that the *Notice of Default* be vacated and the concurrently-filed *Answer* now be accepted and proceedings resumed on their merits.

Respectfully submitted,

TODD SPINELLI  
and FRANK OTTAVIANI

By   
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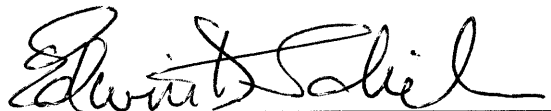
June 1, 2010

CERTIFICATE OF SERVICE

I, EDWIN D. SCHINDLER, hereby certify that I served a true and complete copy of *Applicants' Response to the Notice of Default, Entered April 30, 2010*, upon the following counsel representing Opposer, GlaxoSmithKline LLC, via First-Class Mail, postage-prepaid:

Tywanda H. Lord  
Theodore H. Davis, Jr.  
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on June 1, 2010.

  
Edwin D. Schindler, *Attorney for Applicants*